

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4507 of 1991

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE MR. K.SREEDHARAN and
MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

CHAMPRAJBHAI R BHAMBHLA

Versus

DISTRICT JUDGE

Appearance:

MR AJ SHASTRI for Petitioners
SERVED for Respondent No. 1
MR DA BAMBHANIA for Respondent No. 2

CORAM : THE CHIEF JUSTICE MR. K.SREEDHARAN and
MR.JUSTICE M.S.SHAH

Date of decision: 10/12/97

ORAL JUDGEMENT (Per Sreedharan CJ.):

Petitioners applied for the post of Peon. They were within the age limit prescribed at the time of notification, maximum age limit being 25 years. Since they satisfied all the requirements including age, they were selected for the post and included in the select

list at Sr.Nos. 11 and 14 respectively. Orders of appointment were issued long after the preparation of select list. While making appointment of the candidates included in the select list, petitioners were excluded on the ground that they became over aged having completed 25 years of age on the date of appointment. Hence this petition, inter alia, praying for the issuance of a Writ of mandamus directing the District Judge, Surendranagar to appoint them as Peons in the District by declaring that the petitioners are entitled to be appointed to the post.

It is common case that as per notification, the petitioners were within the age limit when they applied for the post. They were within age limit when they were interviewed for the post. It is also conceded that they were within age limit when the select list was prepared. After preparation of the select list delay was caused in making appointment to the various vacancies. When the vacancies were sought to be filled up these petitioners crossed the age limit of 25 years. Therefore, persons ranking at Sr.Nos. 12,13,15 and 16 were appointed. Only reasons stated, according to the petitioners, for denying them appointment was that they crossed the age limit of 25 years at the time of appointment.

Eligibility of a person to be selected for a post must depend on the last date for submitting the applications. If on the last date for applications he was within prescribed age limit and the process of selection and appointment was delayed by which time he became over aged, there is no reason to deny him appointment on that ground. The Government Pleader has not brought to our notice any rule taking a contrary view, nor could he place before us any decision which will support the stand of the respondents that a person who crossed the upper age limit during the validity of the select list is disqualified to get appointment. In such a situation claim put forth by the petitioners is reasonable and denial of appointment to them on the ground that on the date of the occurrence of vacancy they were over aged, cannot be sustained.

In this view of the matter, the respondents are directed to absorb the petitioners, in the vacancies on the basis of their ranking in the select list. Since persons ranked below the petitioners have been given appointment, we direct the respondents to issue order of appointment as early as possible at any rate within one month from the receipt of copy of this judgment.

This Special Civil Application is allowed in the
above terms. Rule is accordingly made absolute with no
order as to costs.

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sharma